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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/716,602

11/20/2003

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EXAMINER

CHEUNG, VICTOR

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

06/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/716,602	<b>Applicant(s)</b> SUGAWARA, TOSHIYOSHI	
	<b>Examiner</b> VICTOR CHEUNG	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11/20/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :11/20/2003, 06/12/2006, 09/05/2006, 06/25/2007, 04/25/2008.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 17-18 are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter. Claims 17-18 each claim a program. Computer programs do not constitute a process, machine, manufacture, or composition of matter. A proper claim to a computer program must be characterized as functional descriptive material, encoded on a computer readable medium, which imparts functionality when employed to a computer, providing a useful, concrete, and tangible result.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 2-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 2-14 each include several “devices” which “allow” the information gathering server, area terminal, and portable user terminal

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to perform certain functions. These devices are not described in the specification or in the drawings in any way to describe their physical structure or method of use that allows them to allow the server and terminals to perform their functions. Also see the 35 U.S.C. 112 second paragraph rejections of the same claims regarding the claim language.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re Claim 1: Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. The claim is narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim must be in one sentence form only. Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

Re Claims 2-16: Claims 15-16 each claim an information gathering method including steps of “allowing” certain apparatuses to then perform certain method steps. It is unclear what is meant by the terms of “allowing” the steps to occur. The specification makes no mention of the system setting permissions or security access that would require any apparatus to have to be allowed to perform any specific function. Claims 2-14 similarly contain language wherein “a device” allows an

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apparatus to perform certain functions. If the Applicant wishes to positively claim functions or steps to be performed, the language should make the claims clear.

Re Claim 3: Claim 3 discloses a “hall terminal provided at a gift hand-over place in said event hall” in lines 5-6 (page 27, lines 4-5). It is unclear what the Applicant is trying to claim with this language. For the purposes of this Office Action, the limitation is interpreted as –a space for providing a gift--.

Re Claim 11: Claim 11 claims “an information gathering server” comprising “portable user terminals,” “area terminals,” “a client terminal,” and several “devices” performing various tasks. It is unclear how a “server” can include all the different limitations the Applicant is claiming. It is also noted that, for example, in claims 1-3, an information gathering server is claimed separately from the portable user terminals, whereas the portable user terminals are claimed to be part of the information gathering server in claim 11. Correction is required.

Re Claims 17-18: Claim 17 recites in the preamble” “A program which is adapted to an information gathering server in a system having portable user terminals carried by persons who have entered an event hall, area terminals provided area by area in said event hall, an information gathering server, a client terminal and a network which connects said area terminals, said client terminal and said information gathering server, and which allows a computer to realize” and cClaim 18 recites in the preamble: “A program which is adapted to an information gathering server in a system having portable user terminals carried by persons who have entered an event hall, a hall terminal provided at a gift hand-over place in said event hall, area terminals provided area by area in said event hall, an information gathering server, a client terminal and a network which connects said hall terminal, said area terminals, said client terminal and said information gathering server, and

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which allows a computer to realize:”. It is unclear in both claims whether it is the program or the network which allows the computer to realize.

Re Claims 17-18: Claims 17-18 each claim that a computer “realizes” specific functions that perform specific method steps. It is unclear what Applicant is trying to claim and what is meant by the computer realizing those functions. If Applicant is trying to claim that the computer performs specific steps, the language should make the claim clear.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weir et al. (US Patent Application Publication No. 2002/0192631) in view of Abrahamson et al. (US Patent No. 5,002,491).

Re Claims 1-2: Weir et al. disclose an information gathering system comprising portable user terminals carried by persons (Fig. 1; Paragraph 33), an area terminal (Fig. 1, Communications Server), an information gathering server (Paragraphs 26, 31, 38, 110-112), a client terminal (Paragraph 28), a network which connects the area terminal, the client terminal, and the information gathering server (Fig. 1, TCP/IP Network), a device which allows the information gathering server

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to register area information including event halls and areas targeted for a questionnaire, a questionnaire start date, a questionnaire end date, and contents of the questionnaire based on questionnaire request information sent from the client terminal (Paragraphs 28, 48, 50, 101, 110-112), a device which allows the client terminal to transmit the contents of the questionnaire to the associated area terminal over the network when the questionnaire start date has come (Paragraphs 29, 51), a device by which an area terminal having received the contents of the questionnaire transfers the contents of the questionnaire to those portable user terminals which are located in the same area by close-range wireless communication (Paragraphs 29, 51), a device which allows each of the portable user terminals having received the contents of the questionnaire to input an answer to the questionnaire and transmit the answer to the questionnaire to that area terminal in the same area by close-range wireless communication (Paragraphs 29, 51), and a device which allows the area terminal having received the answer to the questionnaire to affix a hall/area ID and a present date to the answer to the questionnaire and transmit that answer to the questionnaire to the information gathering server over the network, and allows the information gathering server to store those pieces of information (Paragraphs 110-112).

However, Weir et al. do not specifically disclose the information gathering server transmitting the questionnaire contents to the area terminal, an event hall with a plurality of areas, the area terminal having received the answer to the questionnaire to affix a hall/area ID and a present date to the answer to the questionnaire.

Weir et al. do disclose that the database includes information such as identifying a student, a class, a school, a district, timeframes such as a school year, school term, class period, a date range, a single day, grades, and responses to be analyzed. It is inherent of a system that includes this



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information that the information must have been affixed to the information that it identifies (Paragraph 82).

Examiner takes OFFICIAL NOTICE that it is well known in the art for computer systems to affix information such as dates, senders, recipients, users, etc., to files for tracking and record keeping purposes.

It would have been obvious to one of ordinary skill in the art to affix a hall/area ID and a present date to the answer to the questionnaire, thereby achieving the predictable result of a attaching accurate tracking information to

Examiner takes OFFICIAL NOTICE that school buildings with a plurality of areas designated for a plurality of different subjects are old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have hall by hall and area by area questionnaires, thereby providing a questionnaire to each area appropriate to the specific area.

Abrahamson et al. disclose an information gathering system including assessments with limited start and end times, and storing assessments on a database (Col. 5, Lines 1-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include limited times for the assessment such that responses to the assessment can be made in a timely manner. It would have been obvious to one of ordinary skill in the art at the time the invention was made to store the assessments on the database such that a central repository can distribute the assessment.

Re Claim 3: Weir et al. disclose an information gathering system comprising portable user terminals carried by persons (Fig. 1; Paragraph 33), an area terminal (Fig. 1, Communications

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Server), an information gathering server (Paragraphs 26, 31, 38, 110-112), a client terminal (Paragraph 28), a network which connects the area terminal, the client terminal, and the information gathering server (Fig. 1, TCP/IP Network), a device which allows the information gathering server to register area information including event halls and areas targeted for a questionnaire, a questionnaire start date, a questionnaire end date, and contents of the questionnaire based on questionnaire request information sent from the client terminal (Paragraphs 28, 48, 50, 101, 110-112), a device which allows the client terminal to transmit the contents of the questionnaire to the associated area terminal over the network when the questionnaire start date has come (Paragraphs 29, 51), a device by which an area terminal having received the contents of the questionnaire transfers the contents of the questionnaire to those portable user terminals which are located in the same area by close-range wireless communication (Paragraphs 29, 51), a device which allows each of the portable user terminals having received the contents of the questionnaire to input an answer to the questionnaire and transmit the answer to the questionnaire to that area terminal in the same area by close-range wireless communication (Paragraphs 29, 51), and a device which allows the area terminal having received the answer to the questionnaire to affix a hall/area ID and a present date to the answer to the questionnaire and transmit that answer to the questionnaire to the information gathering server over the network, and allows the information gathering server to store those pieces of information (Paragraphs 110-112).

Weir et al. additionally disclose the use of identification numbers (Paragraph 41) and requiring the student to login with identifying information (Paragraph 99).

However, Weir et al. do not specifically disclose the information gathering server transmitting the questionnaire contents to the area terminal, an event hall with a plurality of areas, the area terminal having received the answer to the questionnaire to affix a hall/area ID and a

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present date to the answer to the questionnaire. Weir et al. do not specifically disclose the portable user terminal, having received the contents of the questionnaire, to input a name and a personal identification number.

Weir et al. do disclose that the database includes information such as identifying a student, a class, a school, a district, timeframes such as a school year, school term, class period, a date range, a single day, grades, and responses to be analyzed. It is inherent of a system that includes this information that the information must have been affixed to the information that it identifies (Paragraph 82).

Examiner takes OFFICIAL NOTICE that it is well known in the art for computer systems to affix information such as dates, senders, recipients, users, etc., to files for tracking and record keeping purposes.

It would have been obvious to one of ordinary skill in the art to affix a hall/area ID and a present date to the answer to the questionnaire, thereby achieving the predictable result of a attaching accurate tracking information to

Examiner takes OFFICIAL NOTICE that school buildings with a plurality of areas designated for a plurality of different subjects are old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have hall by hall and area by area questionnaires, thereby providing a questionnaire to each area appropriate to the specific area.

Abrahamson et al. disclose an information gathering system including assessments with limited start and end times, and storing assessments on a database (Col. 5, Lines 1-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include limited times for the assessment such that responses to the assessment can be made

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in a timely manner. It would have been obvious to one of ordinary skill in the art at the time the invention was made to store the assessments on the database such that a central repository can distribute the assessment.

Examiner takes OFFICIAL NOTICE that it is well known in the art for students to indicate a name and personal identification information when submitting answers to an assessment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to input a name and a personal identification number with the answer such that the answer is linked to the student submitting the information.

Inselberg discloses an information gathering system in an event hall including a device for broadcasting messages to all users (Col. 4, Lines 18-22, 27-29), redeeming prizes at a central location (Col. 4, Lines 55-58), drawing a gift getting person from those that answered a questionnaire after the end of the questionnaire (Col. 5, Lines 21-24) using an identifier unique to the person (Col. 4, Lines 54-58).

Examiner takes OFFICIAL NOTICE that announcing the identification of prize winners is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the gift giving and gift getting procedures of Inselberg such that participant enjoyment is enhanced.

Re Claims 4-5: As discussed in Claim 3, it is well known in the art to have buildings house schools with a plurality of classes dedicated to a plurality of different subjects. Thus the contents of the questionnaires of each individual class of the plurality of classes would inherently differ from one another.

Re Claims 8-10: Weir et al. disclose infrared communication (Paragraph 29).

9. Claims 6-7 and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weir et al. and Abrahamson et al. as applied to claims 2 and 3 above, and further in view of Masuda (US Patent No. 6,915,105).

Re Claims 6-7, 11-12, 15-16: Weir et al., as modified by Abrahamson et al. (as in claim 2) and Inselberg (as in claim 3), disclose the limitations of claims 2 and 3 above. Weir et al. additionally disclose transmitting answer information to the client terminal from the information gathering server (Paragraphs 39, 51, 82).

However, Weir et al. do not specifically disclose executing a charge settling process when the questionnaire end date has come.

Masuda discloses that nearly any person, service, or equipment used in a learning process may be charged and paid for (Col. 5, Lines 41-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to execute a charge settling process when the questionnaire end date has come, thereby providing financial compensation for services rendered to and from the users.

Re Claims 13-14: As discussed in Claim 3, it is well known in the art to have buildings house schools with a plurality of classes dedicated to a plurality of different subjects. Thus the contents of

the questionnaires of each individual class of the plurality of classes would inherently differ from one another.

Re Claims 17-18: Weir et al. disclose the system as a computer implemented system using programs (Paragraph 20).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Joao (US Publication 2003/0110215) discloses providing educational materials in a network environment including scheduled events and timing materials presented. Murphy (US Publication 2004/0081953) discloses providing an educational service including presenting questions and quizzes scheduled by an administrator. Newsham et al. (USPN 5,615,134) disclose an information gathering system including polling over a period of days, weeks, and months. Wen et al. (US Publication No. 2003/0198936) discloses a learning assessment system including a teacher device administering a test for a specific period of time to portable terminals. Saar et al. (US Publication 2003/0215780) disclose a wireless audience polling and response system. Nickerson (USPN 5,226,117) discloses a real-time wireless audience response system. Anderson et al. (USPN 4,377,870) disclose an electronic audience wireless polling system. Roschelle et al. (US Publication 2004/0072136) disclose an information gathering system including a query and response feedback method in a classroom setting. Tsakiris et al. (USPN 5,204,768) disclose a remote controlled electronic presentation and audience response system. Etuk et al. (USPN 7,257,367) disclose an education system for providing gifts to students. Ward (USPN 6,895,213) discloses a

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communication system for an education environment including wireless portable terminals and examinations administered by a teacher. Moskowitz et al. (USPN 6,654,588) disclose a presentation system including wireless feedback evaluation. Bhan et al. (US Publication 2001/0032125) disclose an information gathering system including providing a gift based on a questionnaire.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR CHEUNG whose telephone number is (571)270-1349. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. C./

Examiner, Art Unit 3714

/Ronald Laneau/

Supervisory Patent Examiner, Art Unit 3714

06/22/08

